

PIPELINE

MICHIGAN ASSOCIATION OF COUNTY DRAIN COMMISSIONERS

MANAGING MICHIGAN'S WATER RESOURCES SINCE 1899

**2018 WINTER
CONFERENCE RECAP**

**15 MILE ROAD
SEWER COLLAPSE**

*2018 MACDC Innovation & Excellence
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PRESIDENT'S MESSAGE

DAVID THOMPSON

Monroe County Drain Commissioner



Hello all,

We have just completed another successful annual winter drain conference, and I would like to thank our presenters and program committee for putting together such a great event. Networking in this way is vital when it comes to bolstering our association and improving our relationships with each other.

According to Theodore Roosevelt, "The most important single ingredient in the formula of success is knowing how to get along with people." As County Drain Commissioners, we need to ensure that we get along with several key players, including County Commissioners, Road Commissioners, and Legislators.

It is important that we work well with County Commissioners, as we serve the public with them hand in hand. Similarly, we must work well with Road Commissioners, as the projects we each undertake influence the county at large. In an equally important way, we must work well with our Legislators. It is absolutely crucial that our Legislators know who we are and what we do. They need to trust in our abilities and expertise so that they seek out our opinions when drafting legislation that will affect us and our association.

We do not know what the future holds or how our actions will affect others, but we can rest assured that any opportunity we take to improve a relationship will reap benefits. Therefore, I encourage you to continue to network with each other as we

move into spring, but also to reach out to your local County Commissioners, Road Commissioners, and Legislators to strengthen and improve the relationships that you have already forged.

All the very best,

David



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OF TRUCKS* 14

- HP Storm uses less trucks
- Self unloading - no lifting required



OF TRUCKS* 49

- RCP uses more trucks
- Machinery required to unload

* Based on 5,000 feet of 30" diameter pipe.

STAGING

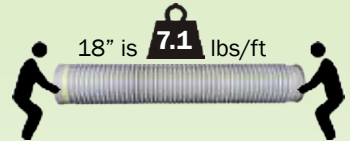


- HP Storm is able to be stacked high
- Nest smaller diameters



- RCP stacks two high

STRINGING



- HP Storm can be moved quicker
- Handle safer



- RCP is moved two at a time
- Requires machinery

INSTALLATION

A typical project with 5,000 ft specified on the plans will net you:

- 25 days using HP Storm (56 days with RCP)
- 250 joints using HP Storm (625 joints with RCP)



**30" HP Storm:
Installation Rate
of 200 ft per day***

**30" RCP:
Installation Rate
of 88 ft per day***

*Data compiled from RSMeans

STAFF SPOTLIGHT



Kleiman

Name: Caleb Kleiman

Drain Commissioner's Office: Menominee County

Position Title: Menominee County Drain Commissioner

Years Working at the Drain Commissioner's Office: 2

Key Responsibilities: Respond to questions and issues that arise among residents throughout Menominee County that regard drainage problems. Keep up on current legislation that deals with the Drain Commissioner office.

What do you like most about your current position: Being able to serve the people of Menominee County and assisting them with any issues under the jurisdiction of my office.

Most challenging aspect of your current position: Currently there are no registered drains in Menominee County so most of the issues I am trying to assist my residents with fall under the jurisdiction of other departments like the Road Commission.

Background/Experience: Currently enrolled at Central Michigan University pursuing a bachelor's degree in accounting and finance. Elected as Menominee County Drain Commissioner when I was 19. Third generation elected official, my father is the Menominee County Clerk/Register of Deeds and my grandfather is the Harris Township Supervisor/Assessor. Grew up in Menominee, MI and graduated from Menominee High School in 2016. Plan on attending law school upon completion of my bachelor's degree and returning to assist the residents of Menominee County.

Hobbies: Hunting and fishing, spending time with friends and family, attending sporting events and county music festivals.



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2018 MACDC WINTER CONFERENCE AWARDS

MACDC HONORS NEW LIFE MEMBER

The Michigan Association of County Drain Commissioners honored Robert J. “Bobby” Bendzinski with the Geoffrey H. Seidlein Life Membership Award at their 119th Annual Winter Conference in February. This marked the first time in the history of the MACDC that a father and son will both be life members. His father, Robert C. “Bob Sr.” Bendzinski was previously honored with this award.

Bobby is the oldest of the three children of Bob Sr. and his wife Pat and the father of Kevin, Robbie, Annemarie and the late Ryan and the grandfather of Ryan’s son Bruno.



Robert “Bobby” Bendzinski (middle) with his father, Bob Sr. (far left), his daughter, Annemarie (left), his mother, Pat (right), and his son, Robbie (far right).

After graduating from Warren Cousino High School in 1977, Bobby began working for his father at Bendzinski & Co., the public finance advisory firm founded by Bob Sr. in 1976.

Bobby went to college at night, receiving his accounting degree from the University of Detroit in 1986. He worked hard to learn the financial advisory business and today is a well-known and highly respected municipal advisor with clients all over the State of Michigan.

Bobby became President of Bendzinski & Co. in 1998. Three generations of Bendzinski’s

have worked at Bendzinski & Co. – Bob Sr., Bobby and two of Bobby’s sons – Ryan, until his untimely passing in 2016, and Kevin, who continues to work with his father.

Bobby went to his first drain conference in February 1979 at Bay Valley. Bob Sr. had planned a cruise at the same time as the conference and left Bobby to deliver a speech. He started working for drain commissioners shortly after that. In the almost 40 years of working on drain financings, he estimates that he has worked for at least 80 different drain commissioners and closed at least 300 drain note and bond issues around the state.

He has also been an active speaker and presenter at numerous summer and winter conferences and at the Drain Schools held every four years for newly elected drain commissioners.

In addition to several speaking engagements, Bobby has contributed significantly to the annual golf outing, previously soliciting sponsors and coordinating with the resort and the golf pro shop. He continues to set the pairings, load the golf clubs on the carts and organize everyone before teeing off.

In addition to his service to MACDC, Bobby has served on the Board and chaired the Legislation and Professional Development Committees of the Michigan Government Finance Officers Association. He has also served on the Board of the National Association of Municipal Advisors, and on the Board, as well as President and Vice President of the Bond Club of Detroit. He has been a frequent speaker on topics related to public finance and he has spoken at events hosted by the Michigan Government Finance Officers Association, Michigan Association of Municipal Treasurers, Michigan Association of County Treasurers, Michigan Association of

Certified Public Accountants, and the National Association of Municipal Advisors.

One thing Bobby will always be remembered for is his work for the Michael Volante Pediatric AIDS Foundation that is affiliated with Children’s Hospital in Detroit. Michael Volante was the son of one of Bobby’s close friends in high school who was born with AIDS, treated for the disease at Children’s Hospital, and unfortunately passed away in 1995. For eight consecutive years, Bobby was the organizer of an annual golf outing to raise money to be used to fund AIDS research at Children’s Hospital. Over those eight years, he was successful in raising over \$125,000.



Robert “Bobby” Bendzinski (middle) with fellow Life Members his father, Bob Sr. (left) and Terence Donnelly (right).



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Innovation & Excellence Awards

15 MILE ROAD SEWER COLLAPSE

First known as the “Fraser Sinkhole,” and later as the “15 Mile Road Interceptor Recovery Shaft,” this project began on Christmas Eve morning, 2016, literally out of nowhere, forcing the immediate evacuation of 23 families. The 11’ diameter interceptor serves over 500,000 residents, 40,000 businesses, and 11 communities plus Selfridge Air National Guard Base. The emergency status that accompanied this huge project dictated significant decisions be made “on-the-fly,” and the teamwork between municipalities, Macomb County Public Works Commissioner’s Office, consultants and contractors was second-to-none. Full flow was restored to the repaired interceptor on September 26, 2017.

PROJECT TEAM:

Candice S. Miller, Macomb County Public Works Commissioner

Engineer: Anderson, Eckstein & Westrick, Inc. (AEW)

Contributing Companies: Applied Science, Inc., NTH Consultants, Ltd., Spalding DeDecker and GEI Consultants



GROESBECK PARK DRAIN

The Groesbeck Park Drain project is a highly unique regional stormwater detention facility and regional water quality improvement system. Decades of highly urbanized development within the District adjacent to 3 sites of environmental concern (fly ash disposal pit, EPA superfund site and Class II active landfill) and a remnant of the Mason Esker (groundwater recharge area from glacial river deposits comprised of sand and gravel) meant many robust challenges. Intense development within the 300-acre district caused flooding on properties, local streets and on the City of Lansing’s municipal Groesbeck Golf Course. This flooding from the runoff was subsequently pushing stormwater (and driving pollution) into this groundwater recharge area and the aquifer that provides most of Lansing’s drinking water. This project properly collects, detains and treats the stormwater from the district while greatly reducing longstanding pollution issues affecting thousands of local residents.

PROJECT TEAM:

Patrick E. Lindemann, Ingham County Drain Commissioner

Engineer: Eng., Inc.

Contractor: Mead Bros. Excavating, Inc.

Contributing Companies: Woodworth Law Firm, Water & Woods Ecology, SME, Northern Concrete Pipe, PFM Financial Advisors, LLC, Miller Canfield P.L.C., Herpetological Resource and Management, LLC



Honorable Mentions

CLINTON RIVER SPILLWAY INTERCOUNTY DRAIN HABITAT RESTORATION

The Clinton River Spillway Intercounty Drain Drainage Board partnered with Hubbell, Roth & Clark, Inc. (HRC) and their team of professionals to plan, design and construct over \$4 million of Great Lakes Restoration Initiative habitat restoration improvements, transforming a typical urban storm drain designed for flood conveyance into an environmental and economic resource. This project enhanced the 2-mile drain and its easement with over 13 acres of riparian and shrub-scrub wetland habitat, better linking the Clinton River to Lake St. Clair, voted in 2013 as the best bass fishing lake in America. The improvements to the intercounty drain will provide long-term maintenance savings to the four-county drainage district, while providing the communities within the district with enhanced opportunities for fishing, bird watching and trails.

PROJECT TEAM:

Michael R. Gregg, MI Dept. of Agriculture and Rural Development

Candice S. Miller, Macomb County Public Works Commissioner

Joseph Suma, Lapeer County Drain Commissioner

Jim Nash, Oakland County Water Resources Commissioner

Robert Wiley, St. Clair County Drain Commissioner

Engineer: Hubbell, Roth & Clark, Inc.

Contractors: Anglin Civil, LLC and Cardno



BLACKMORE DRAIN IMPROVEMENTS

When new MS4 permit rules were adopted, local business owners of small commercial properties claimed it was going to stop development of this important business corridor in Battle Creek. Economic concerns, along with frequent flooding of Columbia Ave. (an MDOT road), prompted an innovative multi-partner idea that significantly improved water quality, and did not restrict future development. A combination of two stage basins, stream stabilization, and floodplain reclamation were used so that millions of dollars' worth of new piping was not necessary. The project educated the public and used a unique hydraulic design to accomplish all of the project goals.

PROJECT TEAM:

Fred Heaton and Chris Kosmowski, Calhoun County Water Resources Commissioners

Engineer: Civil Engineers, Inc. (CEI)

Other Consultants: Spicer Group, Inc., Fahey Schultz Burzych Rhodes PLC, SME



WINTER CONFERENCE SESSION RECAP



The Beauty of Urgency: Why people thrive or fail when the stakes are highest

John Collins, High-Stakes Leadership Consultant & Executive Coach, Critical Victories

A crisis is the culmination of all surly significance and malicious meaning we attach to an urgency.

CRISIS VS. URGENCY

The ability to succeed in the face of urgency depends on the intentions of those who are present.

Progress is fueled by the energies of those who simplify the issues and create clarity about what must be done and how.

Distractions are created by those who make things more complicated and chaotic. They thrive off chaos because it makes them feel more alive and relevant. The press does this because when they manufacture chaos, they create new stories and new opportunities to remain relevant. You will never see a news reporter or news anchor come on the air and say, “We are happy to report that there is nothing very serious going on right now. And so, we’d like to play some soft music and videos of fluffy animals playing in the park.”

It’s the job of the solution-makers to bring all harm-filled urgencies to a state of peace and calm. Their job is to bring life back to normal.

PRESS RELATIONS OR PARTNERSHIP?

It’s the job of the press to gather and report facts of public significance such that the well-being of the public can be preserved or improved.

Among the biggest and most common mistakes made by public relations specialists and general legal counsel is helping to fabricate a crisis by playing into the supposed press adversarialism.

5 Tips on Managing Urgency

1. Break reporters’ monopoly on reporting
2. Work in partnership with the press
3. Be firm in your organization and

4. understanding of the facts
4. Neutralize chaos by inserting predictability into the story
5. Quiet the urgencies you can’t control with those you can

MACDC SESC APA Manual Revisions

Jon Morrison, Clinton County

Amy Berry, Michigan Department of Environmental Quality

Mark Cavanaugh, Hanes Geo Components

Larry Protasiewicz, P.E., Spicer Group, Inc

Manual Overview - Table of Contents reduced from 9 sections to 6

- SECTION 1 – Program Guidelines, updated
- SECTION 2 – MACDC Keying System, 40
- SECTION 3 – Erosion Control Measures, 40
- SECTION 4 – Routine Maintenance Activities, 5
- SECTION 5 – Part 91 and Administrative Rules, updated
- SECTION 6 – Glossary, self-explanatory

MANUAL REVISION HIGHLIGHTS

Key factors for revisions

- Concerns with the “mixing” of actual SESC measures and more in-depth drain practices/BMPs for example, measures included under former Section 7 – Construction & Restoration Activity Details were identified as Drain Work Elements rather than SESC Measures
- Incorporation of modern/new practices and technologies
- Alignment of MACDC keying system with MDOT’s to the extent practical while preserving original manual contents. Keying number & name changes.
- Realization that current manual is being used by some as a “construction specification tool” when performing drain maintenance projects. To preserve this functionality previous Section 6 - “Routine Maintenance Activities”(now 4) was retained but limited to 5 activities:



Debris Removal, Sediment Removal, Basin Maintenance, Crossing Maintenance and Closed Drain Maintenance

New MACDC Measures

- Previous Sections 3, 4 and 5 condensed to a single section. Section 3 – “Erosion Control Measures” which includes 40 identified items.

Modified Measures

- Various existing measures were deemed better served by being grouped together to be more encompassing in nature while still providing a similar “function”, examples include:
 - Slope Stabilization goes beyond basic mulching to include blankets, wattles, cellular confinement, etc.
 - Perimeter Sediment Control historically the realm of silt fence, can be achieved with compost socks, erosion eels, coir logs, etc.

Deleted Measures: 29 prior identified Measures/Activities were removed from manual to arrive at the 40 remaining.

Legislative Update

Deena Bosworth, Michigan Association of Counties

Brian Jonckheere, Livingston County

How can you help?

Develop relationship with legislators, as well as their staff

- Attend fundraisers
- Provide campaign sign locations/put up signs for campaigns
- Offer to help with constituent complaints on water issues
- Be relevant by being an asset in the community
- Build relationships with other units of government
- Be a problem solver

Provide opinion with sound reasoning

- Identify how this effects their constituent’s safety, financially, well being

- Keep the emotion out of it
- Put it in writing
 - Handwritten if you can
 - Emailed if you’d rather
 - Verbal message to staffer if you must

An ‘Environmental’ View on Constructed Wetlands

Tom Zimmnicki, Michigan Environmental Council

Function and Value of Wetlands for Water Management

- Water Purification
- Flood Protection
- Shoreline Stabilization
- Groundwater Recharge
- Streamflow Maintenance
- Wildlife Habitat
- Recreation Opportunities

Effects in Michigan

- Earlier spring runoff, larger floods, hotter summers
 - Increased degradation from storm events, invasive species, human activities
- Loss of wetland function will degrade streams, lakes, rivers that depend on wetland filtration
- Erratic rainfall patterns
- Issues with groundwater recharge

How do we manage excess water?

- Slow runoff with vegetation
- Promote infiltration
- Urban green infrastructure
- Ditches
- Improve tile systems
- Detention / retention

Drain Commissioner’s Guide to Ethics and Conflicts of Interest

Douglas R. Kelly, Esq. and Joseph W. Colaianne, Esq., Clark Hill, PLC

The Do’s

Consistently act in a manner that upholds and advances personal and professional honor, integrity and the public’s trust in the office of the County Drain Commissioner.

Hire contractors, consultants, and service providers based upon their demonstrable experience and qualifications without regard to considerations and influences unrelated to their ability to perform the services for which they are hired in a professional, cost effective and timely manner.

Refuse to provide, promise to provide or offer any contract, work, payment, special attention, preferential treatment, priority or other thing or position of value in exchange for any gift, gratuity, favor, promise or other consideration.

Refrain from engaging in conduct that could be reasonably perceived to call into question the honesty, integrity and professionalism of the office of the County Drain Commissioner.

Comply with all applicable laws providing for transparency in governmental affairs including but not limited to Michigan’s Open Meetings Act, MCL 15.261, et seq., and Freedom of Information Act, MCL 15.231, et seq.

Apply only those considerations authorized by the Michigan Drain Code with uniformity and without bias in making assessment decisions.

Faithfully and accurately account for all drainage district funds.

Prevent activities that interfere with the operation of a drain or increase the cost of performing work on a drain.

The Don’ts

Use of Confidential Information - The Commissioner, Deputy or employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed: (1) by law or ordinance; or (2) by the County Drain Commissioner for its authorized release to the public.

Non-solicitation - The Commissioner, Deputy or employee shall not solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization, other than the state, which tends

to influence the manner in which the public officer or employee or another public officer or employee performs official duties.

Personal Opinion - A Deputy or employee shall not represent his or her personal opinion as that of Drain Commissioner unless otherwise authorized by the Commissioner.

Public Resources - The Commissioner, Deputy and employees shall use personnel, resources, property, and funds under the care and control of the office of the County Drain Commissioner, judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

Personal Profit/Business Transaction - The Commissioner, Deputy or employee should not engage in a business transaction in which the Commissioner, Deputy or employee may profit from his or her official position or authority or benefit financially from confidential information which the Commissioner, Deputy or employee has obtained or may obtain by reason of that position or authority.

Incompatibility and Conflicts of Interest - Except as otherwise provided in Const. 1963, or by statute, the Commissioner, Deputy or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the Commissioner’s, Deputy’s or employee’s official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties.

Personal and financial interests - The Commissioner, Deputy or employee should not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity in which the Commissioner, Deputy or employee has a financial or personal interest.

Political Activity - The Commissioner, Deputy or employee should not coerce, attempt to coerce, or command another public employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for the benefit of a person seeking or holding elected office, or for the purpose of furthering or defeating a proposed law, ballot question, or other measure that may be submitted to a vote of the electors.

It's Not You, It's Me: Drain Abandonment

John S. Brennan, Fahey Schultz Burzych
Rhodes PLC

What is an acceptable reason for abandoning a drain (or portion)?

Answer: When the drain “has ceased to be of public utility and is no longer necessary or conducive to the public health, convenience and welfare.”

Who can initiate abandonment procedure?

Answer: Need a Petition signed by 5 Freeholders in the drainage district OR a governing body of any public corporation in whose limits a drain (or portion to be abandoned) is located. (Need resolution) The petition goes to Drain Commissioner or Drain Board depending on type of drain.

What does Abandonment mean?

Drain (or portion) is no longer a county (or intercounty) drain.

- No more jurisdiction over the drain
- Can't be used to determine maintenance spending limits
- Can't be the subject of a PA222 action
- Returns to control of landowner
- Drain must be filled or plugged
- Drain is turned over to another governmental body

RELINQUISHING DRAINS – (SECTION 395)

Purpose – to transfer jurisdiction of the drain to another government entity

What entities?

- Townships
- Cities
- Villages

Which drainage districts qualify?

- Drainage district has no outstanding debt
- Drainage district has no contractual liability
- Entire drainage district must be located within the municipality taking jurisdiction
- Municipality requesting jurisdiction approves by resolution
- County Board of Commissioners approves by simple majority vote
- Transfer of jurisdiction is approved by the drain commissioner
- Note: no requirement to relinquish drain; decision is in the discretion of the drain commissioner
- Recommended: once approved, enter into Relinquishment Agreement

Easements

- Recordable instrument to assign so that

they may be found during a title search

- All properties traversed by the drain

Disbursement of Drain Funds

- Same method as in Sections 391 – 394
- Give notice to county treasurer
- County treasurer makes transfer to municipality taking jurisdiction
- Municipality makes further distribution to property owners under Sections 393-394

SEC. 396

Applies only to counties with a Department of Public Works that have a separate office of County Drain Commissioner

Purpose: allows for DPW to take over a drain project upon recommendation of county drain commissioner.

Understanding the MDEQ Compliance and Enforcement Process

Susan Doty & Dave Pingel, Michigan
Department of Environmental Quality

TYPES OF ENFORCEMENT

Administrative Enforcement

- Identification of a violation by DEQ.
- DEQ is required to document the violation.
 - Compliance Communication
 - Violation Notice
 - Request for Information
- This is the 1st opportunity to make corrective actions!

Civil Enforcement

- Violations will be resolved
- Generally, goal is to settle by a Mutual Agreement (ACO or DACO)
- AG will be involved
- Process escalates as needed
- Usually involves financial penalties

Escalated Enforcement Pathways

- Generally, goal is to settle by a Mutual Agreement (ACO or DACO).
- Attorney General will be involved.
- Process escalates as needed.
- Usually involves financial penalties (Depending on statute violated)

Summary

- The DEQ's Enforcement Process is usually progressive
- The best option is to correct violations quickly and completely
- Violations have to be documented by DEQ staff
- If a matter ends up in civil enforcement, a mutual agreement is usually better for all

parties involved

- The purpose of enforcement to ensure and encourage compliance with State Laws

Bees in the ditch, it's a good thing!

Tom Zimnicki, Michigan Environmental Council

Logan Rowe, Michigan State University

Why pollinators matter in agriculture

Pollinator services are essential for our current agricultural industry

- 20,000 bee species worldwide with 3,600 in US and over 450 in MI
- 1 in 3 bites of food are thanks to bees
- \$24B attributed to pollinators
- \$15B from bees (managed and wild)
- \$3B from wild only

Pollinator declines

- Pesticide exposure
- Loss of habitat

Benefits beyond pollinator health

- Assimilate toxins and pollutants
- Erosion control
- Invasive species control

Tablets, Smart Phones, and Drains

Rich Graham, P.E. & Steve Roznowski, P.E., Spicer Group

Technology for Drains

- Drain and SESC Inspections
- Construction Inspections
- Landowner Meetings

Device Safety

- Use protective case to prevent scratches to screen
- Choose a protective case that is waterproof & weatherproof
- Plastic bags work for temporary waterproofing
- Hand and shoulder Straps or other types of tethers are useful in keeping device secure with you
- Turn on device tracking in case it gets lost

Cellular Strength

- Work offline when there is limited or no signal
- Try connecting to Mifi or antenna to boost signal strength
- Upload/download data once signal strength has improved

Dealing with Contractors and Construction Issues

Brian Cenci, P.E., Eng., Inc.

Putting together good bid documents so that your lowest responsible bidder is both your lowest bid and responsible Contractor who you'd like to have on the job

Carefully review Bid items and what's included in payment for that particular item of work (Measurement & Payment Section)

Before a job is started what costs does a Contractor have?

- Bid preparation costs & Bid Bond
- Construction Performance Bond
- Construction Payment Bond
- Maintenance & Guarantee Bond
- Insurances
- Permits

Pre-Construction Review with Contractor

- Are there items of work that are particularly expensive?
- Are there materials specified that are difficult to source or very costly?
- Does the Contractor have suggestions for possible items that may reduce costs without compromising quality?

Public Engagement

Steve Korth, Oakland County Water Resource Commission

Todd Sneathen, Hubbell, Roth & Clark, Inc.

What is the purpose?

- Maintenance
- Construction Project
- Public Education
- Other

Who is your Audience?

- Property Owners
- Municipalities
- Elected Officials
- Educators
- Kids

Get the Word Out (Advertise)

- Newspaper
- Television
- Direct Mailing
- Email
- Website
- Social Media

PUBLIC MEETING

What Style?

- Presentation
- Open House
- Combination
 - Maps and pictures

- Brief presentation at the beginning
- General Q and A
- Breakout Sessions

Presentation Content

- Update on the project
- Define the Project scope
 - Observations
- Review schedule
- Pictures of typical construction operations
- Detailed information about the project
- Picture of the proposed work areas
- Before and after pictures of similar work

PROJECT BACKGROUND

Drain Information

- Year drain established:
- Miles of drain: Approximately XX miles
- Acres in established district: +/- XX
- Date of petition
- Drainage district boundaries updated in 2015
- Findings based on inspections and existing conditions

Areas involved:

- Road crossings
- Channels
- Wetlands
- Outlets
- Side drains

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FOIA: HOW LONG DO I REALLY HAVE TO PRODUCE RECORDS?

Shaydon Weaver, Fahey, Schultz, Burzych, Rhodes, PLC

Drain Commissioners are no strangers to the Michigan Freedom of Information Act, (“FOIA”). A FOIA request that is granted is only the beginning of the process. The request may require significant time and personnel resources to search for and produce the relevant records. While the timelines for responding to a FOIA request are fixed (5 business days unless extended by letter for an additional 10 business days), FOIA simply has no fixed deadlines for the actual production of the records themselves. FOIA requires that if a request is granted either in whole or in part the public body must, in its response, provide an estimate of how long it will take to produce the requested records. This estimate is called a “best efforts estimate,” but FOIA specifically states that the estimate is “not binding upon the public body.” Nevertheless, FOIA requires that this estimate be given in good faith and with an effort to be reasonably accurate. So once the response with the estimate is given, how long is too long to provide the records?

This question was recently put to the Michigan Attorney General (“AG”), who issued an official opinion letter in response, (“Opinion”). The Opinion confirms that FOIA lacks a fixed deadline by which a public body must fulfill a request for records. “Instead, the public body is guided by, but is not bound by, the “best efforts estimate” that the public body must provide in its response required by subsection 5(2), MCL 15.235(2).”

Understanding that the estimate is a guide, it is important to know what must be considered in coming up with a best efforts estimate and how closely it should be adhered to. The Opinion attempts to clarify what an appropriate “best effort estimate” is and what should be considered in setting it. The Opinion is less clear about what suffices for an excuse to miss the estimated production date.

HOW DO YOU DETERMINE A “BEST EFFORTS ESTIMATE?”

A drain commissioner needs to accurately calculate the best efforts estimate; unfortunately however, FOIA does not even define the term. In the Opinion, the AG took the position that

without a specific definition provided, the terms should hold their common meaning. “Estimate” means to calculate approximately and “best efforts” can mean to diligently attempt to carry out an obligation. By fusing those definitions, the AG concluded that a “best efforts estimate” should be the time it would take a public body working diligently to fulfill the obligation; or, how long will it take to carefully and earnestly compile the records and get them to the requestor.

According to the Opinion, providing the estimate honestly, without intending to defraud, and while being faithful the duties and obligations of the office are essential to good faith. The requirement to calculate time estimates in good faith prohibits intentionally delaying the production of records that are sought. For example, providing an estimate that is a gross overstatement of the time it would take to search for and provide documents in order to lessen the priority of responding, or to discourage a person who makes frequent FOIA requests is not good faith. While each request an office may receive may be different from the previous or the next, at the minimum, the good faith requirement holds the public body to be consistent among its own actions and policies for production.

Requiring the estimate to be reasonably accurate logically requires reference to prior requests and familiarity with the documents requested. The Opinion states that reasonableness is “based on what a similar person in the same circumstance and of the same nature would do.” It is necessary to make some effort to determine the amount of records requested, the accessibility of those records, and the personnel available to actually perform the retrieval. Keeping a record of best effort estimates can provide guidance on how to set a reasonably accurate estimate for similar requests.

Our advice is to think about the best efforts estimate as the amount of time it should take, given the resources available to the office, to search for, locate and retrieve the requested documents in a manner that can be produced to the requestor. The Opinion specifically states that “a technological disruption, an unexpected loss of

personnel, or even an unexpectedly high volume of requests may impact the time within which a public body can fulfill a request. A public body may factor such events into its calculation of its best efforts estimate.” The best efforts estimate assumes diligence and good faith keeping in mind FOIA’s policy that the public is entitled to full and complete information regarding the affairs of government.

MISSING THE ESTIMATED DEADLINE

Once the best efforts estimate is provided to the requester, it is obvious that the responding office should actually use its best efforts to produce the records within the estimated time. But what if the estimated time has passed and the search for the records has not been completed, or the records are still in the process of being retrieved? The good news is that the law presumes “that a public officer has performed his or her duty and has performed it properly, which is to say fairly, faithfully, honestly, legally, and regularly.”

Despite this presumption, there ought to be sound reasons for a substantial delay. Although the Opinion cites examples of events, noted above, that justify a longer time estimate, it is strangely silent about whether such events that occur after the estimate is given provide an excuse for a later-than-estimated production. Instead, the Opinion asserts that FOIA provides no specific guidance and suggests that the office “may wish to consult with its legal counsel to determine the best course of action.”

One course of action suggested by the Opinion, although not required by FOIA, is to advise the FOIA requester when a delay occurs or is likely to occur. Communication that explains the situation and demonstrates that a diligent effort to produce is under way is the best avenue toward avoiding a conflict and the possibility of litigation. However, while there may be several legitimate reasons for a delay, a poorly considered best efforts estimate is not likely one of them.

CONCLUSION

The AG Opinion highlights the importance of carefully providing a best efforts estimate in response to a FOIA request. While the time estimate is not a bright line date with automatic consequences, the Opinion emphasizes its importance in providing a guideline and setting the expectations of the parties involved. Clearly, once the estimate has been provided,

it is expected that it be considered seriously in connection with scheduling resources and performing the necessary work. Unexpected problems that arise after the estimate has been provided should be timely communicated to the requester to avoid conflict and to reset expectations. Unusually long or significant delays may make a legal consult advisable. At the end of the day, “good faith,” “diligence” and “reasonableness” should be the hallmarks of every FOIA response.

- 1 MCL 15.231 et seq.
- 2 MCL 15.234(8).
- 3 OAG, 2017, No. 7,300, pg. 3 (December 12, 2017).
- 4 *Id.* at 4.
- 5 *Id.*
- 6 *Id.*
- 7 3A Mich Pleading & Practice, Performance of Duty, § 36:89 (2d ed.)
- 8 OAG, 2017 at 4.
- 9 *Id.*

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CASE STUDY: MDOT CULVERT INVERT LINING

Natalie Swift, Milliken Infrastructure Solutions, LLC

PROJECT OVERVIEW

On highway M-20, east of New Era, MI, a large metal plate arch culvert was experiencing moderate to severe section loss in the invert from corrosion and abrasion. The steep decline in condition due to corrosion was attributed to the intermittently flowing creek and the invert's frequent exposure to oxygen; this was observed in early 2017 by Michigan Department of Transportation (MDOT) personnel. The active creek flow presented a challenge to any repair/remediation measure as it could not be entirely stopped and a by-pass over the road would be impractical.



Existing culvert invert with moderate to severe section loss

SOLUTION

The MDOT had plans to replace the culvert in 10 to 15 years and desired a repair option that would extend the life of the culvert invert for at least 10 additional years. Replacement would require the roadway to be closed and open cut to remove and replace the culvert with a larger one to accommodate “bank full” width. This option would be a significantly greater impact to residents and motorists using M-20. The MDOT also considered a structural, cured-in-place lining (CIPP) in the culvert, but these reduce the waterway area and are not always hydraulically feasible. Additionally, the CIPP repair option in low-traffic locations under this amount of fill typically cost several hundred thousand dollars – getting close to the cost of a full replacement – so are better suited for culverts under significant fill where replacement would involve significant excavation or the closure of a high-traffic roadway.

MDOT's Grand Region Bridge Engineer, Jonathan Bruinsma, was introduced to Concrete Cloth™ Geosynthetic Cementitious Composite Mat (GCCM) at the annual Michigan Bridge Conference and learned that the fabric would last the required length of time until a replacement was necessary as well as provide a protective barrier against further invert deterioration. He contacted Milliken Infrastructure Solutions, LLC, and was assured that the state of the invert's deterioration made Concrete Cloth GCCM an excellent candidate for the repair.

Installation training and on-site assistance was provided to the Oceana County Road Commission to educate the contracted crew on how to correctly repair the invert using 1,470 square feet of CC8 fabric. Obtaining Department of Environmental Quality (DEQ) permit approval took a little time for this liner since it does not provide a natural channel bottom.

The workers secured strips of the CC8 fabric transversely, shingling the seams in the direction of the creek's flow to prevent water ingress under the fabric. The CC8 panels were then mechanically secured to the invert with a Ramset tool and fasteners because of the culvert wall thickness. The edges were sealed with a bitumen-based sealant to complete the fabric installation. The relative ease of installation enabled the DOT to use local Oceana County crews, which saved the MDOT critical maintenance funds.



Securing CC8 panels with a Ramset tool and fasteners to invert

RESULTS

The complete installation took approximately four (4) hours. The ability of Concrete Cloth GCCM to cure underwater was a key advantage as creek



Layout of transverse strips of CC8 fabric at the culvert outlet, shingling in the direction of flow

flow continued slightly abated during placement and ultimately hydrated and hardened the product. The hydraulic unit of MDOT needed to review and approve the product installation since the placement of a liner reduced the waterway area, but the 8mm thickness sped the approval process because the waterway area reduction was not significant.



Completed CC8 invert rehab, with sealed edges

The Concrete Cloth GCCM invert protection is expected to extend the lifespan of the culvert 10-15 additional years. The low-cost and quick repair provided the DOT value by extending the life of the culvert and considerably delaying the need for the more expensive replacement. The success and viability of this repair will lead the Michigan DOT to consider the use of Concrete Cloth GCCM on future culvert rehabilitation and repair projects.



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15 MILE ROAD SEWER

2018 MACDC INNOVATION AND EXCELLENCE

Wayne Oehmke, Anderson, Eckstein and Westrick, Inc.

Thanks to the efforts of many, Macomb County is pleased to report a successful conclusion to the 15 Mile Interceptor Collapse.

What began as a typical Christmas Eve Day for one family on December 24, 2016 quickly turned into a Christmas nightmare. A family living on Eberlein Drive in the City of Fraser was awoken very early that morning to “creaking, cracking, and pounding” sounds, which soon followed by the realization that something was terribly amiss.

This was an unexpected and catastrophic event that was quickly resolved in large part by the leadership of the Macomb County Public Works Commissioner, Candice S. Miller, and the collaborative effort among Macomb County, the local municipalities, and the state of Michigan.

Former Congresswoman Candice Miller was elected to the position of Drain Commissioner of the Macomb County Public Works Office (MCPWO) in the November 2016 election, and she officially took office on January 1, 2017.



Miller

Commissioner Miller began her first official day in office with a news conference at the collapsed interceptor site attended by homeowners, business owners, public officials, the county’s Emergency Management and Communications team,

and a host of engineers, contractors, and consultants.

COLLAPSE

AWARD WINNER



Commissioner Miller hosted a congressional delegation that included Senators Debbie Stabenow and Gary Peters, and Congressmen Sandy Levin and Paul Mitchell. AEW's Project Manager Lou Urban briefed the delegation prior to an in-person tour of the interceptor collapse area.

Commissioner Miller was a visible and dynamic leader from day one, and made regular late night visits to the engineering team's offices that were located adjacent to the collapse site. She also hosted and attended meetings, news conferences, and visits by local, state, and federal officials. She was an active participant in the successful repairs, financing agreements, and all that was necessary to move the project forward.

This all began when the family on Eberlein Drive dialed 911 after hearing the strange sounds in their house. First responders confirmed their concerns and brought in the City's Department of Public Works who then notified Scott Lockwood, an Anderson, Eckstein and Westrick, Inc. (AEW) Director and Executive VP who serves as Fraser's consulting engineer.

He responded to the scene and consulted with Fraser officials in evaluating the newly-discovered problem. He was also in contact with the MCPWO, who dispatched a team of engineers to the site to assist in determining the cause of the homeowner's dilemma.



The Michigan State Police Bomb Squad brought in two of their robots, "Wolverine," and "Lucky," to produce a video archive of the contents inside two of the condemned homes. The robots were employed so workers wouldn't be exposed to the dangers associated with the deteriorating homes, and the videos were helpful in resolving insurance claims, as well as helping officials determine if there are any hazardous substances that will need to be addressed during the demolition process.

The "Romeo Arm Interceptor" is an 11-foot diameter, 4.3 mile stretch of wastewater pipeline that is part of the Macomb interceptor Drain Drainage District (MIDD) in Macomb County, and serves approximately 500,000 residents, 40,000 businesses, and 11 communities, as well as Selfridge Air National Guard Base. Once it connects with Oakland County, it becomes the Oakland Macomb Interceptor Drain (OMID), and ultimately is pumped into the Great Lakes Water Authority (GLWA) system. The thinking was that the interceptor, 64 feet below ground level in this location, had suffered a collapse, evidenced by a growing sinkhole in the immediate vicinity. The Eberlein family, along with 22 of their neighbors on the cul-de-sac and another family on 15 Mile Road, were evacuated almost immediately as the sinkhole continued to spread. This growing sinkhole displaced these homeowners early that morning, resulted in cutting of utilities as a safety precaution,

caused inconvenience to thousands, and had the potential for becoming an environmental disaster, the likes of which have never been experienced in Macomb County.



The photos above and below show damage to homes that were evacuated. The homes were later condemned and demolished when deemed uninhabitable.



MCPWO officials designated AEW to serve as the lead consulting engineer, and the MCPWO, AEW, and a host of contractors/subcontractors, sub-consultants, and utility companies began mobilizing to the site on the very same day that Christmas Eve. Clinton Township, Fraser, Macomb County, and the State of Michigan, all declared a "State of Emergency." Vicki Wolber, Macomb's Emergency Management and Communications Director, and her team at the county's communications and technology center (COMTEC) were also very active and effective in the recovery efforts.

Emergency bypass pump stations were designed and constructed to lessen the danger of potential basement flooding

upstream of the collapse. These emergency stations avoided basement flooding on the days following Christmas when we received significant rainfall combined with snow melt that resulted from climbing temperatures. This is the only occasion when the emergency pumps were activated.



This drone photo shows where Control Structure #3 was converted to a pump station, consisting of eight vertical turbine 20-35 cfs pumps that brought the flow up 60+ ft. from below ground, and pumped it into twin 48-in. HDPE pipes that carried the wastewater more than a mile above ground along 15 Mile Road to a manifold located at 15 Mile/Hayes Road. From there, it was directed to a 54-in. spiral welded steel pipe and redeposited into a manhole downstream of the damaged area.

Ground settlement impacted local utilities, reduced traffic on 15 Mile Road (a major east/west five-lane roadway) and eliminated access to Eberlein Drive, resulting in the construction of temporary utilities and temporary access drives to maintain traffic patterns, emergency services and provide an acceptable level of service for the community. 15 Mile Road remained closed to public traffic in the collapse area for the duration of the repair efforts.

A contract was signed in March 2017 for construction of the 300-ft. long, 65-ft. deep and 28-ft. wide “Drilled Tangent Recovery Shaft,” which included internal bracing, excavation to expose the interceptor, removal and replacement of the damaged sewer, and cementitious grouting upstream and downstream of the collapse area to remediate any potential loosened soil conditions.

As repair work progressed, the engineering team was able to access the interceptor



Excavators large and small worked to excavate the approximately 360-ft. long, 12-ft. deep and 90-ft wide pre-cut area, along with the recovery shaft, removing about 32,000 cubic yards of soils in the process.

upstream of the collapse and discovered significant leaks. Cementitious grouting was implemented, and the team prepared plans and specifications for lining 3,700 linear feet of the interceptor upstream of the collapse. The lining was completed using a 9' 2" diameter HOBAS® Centrifugally Cast, Glass-Fiber Reinforced Polymer Mortar Pipe, and the host interceptor was grouted, along with the openings at two in-line manholes. HOBAS was also utilized to replace the 300 feet of interceptor pipe that was removed from the collapse site.



HOBAS® pipe, manufactured in Houston, TX, was trucked to the site via flatbed trailers. Each 20-ft. long section of the 9' 2" diameter pipe weighed 15,000 pounds.

With the repairs made and the downstream portion of the interceptor also cleared of significant debris that had accumulated during the collapse, the recovery shaft and pre-cut were backfilled, and full wastewater flow was restored to the successfully repaired interceptor on September 26, 2017.



A mini-excavator is removed from the recovery shaft excavation site.

15 Mile Road was also repaired, repaved and reopened to public transportation on December 5, 2017. Minor restoration work will be completed early in the 2018 construction season.



This screen, installed just upstream from the bypass pumps, illustrates the “ragging” associated with “flushable wipes” being disposed of in the sewer system. The wipes caused significant difficulties due to clogging up the pumping system.

THE ENGINEERING TEAM

The intensive, year-long journey was truly a collaboration by this entire group. Teamwork and success best characterize their efforts.

Macomb County Public Works Office: Commissioner Candice Miller, Engineers and Support Staff

Lead Consultant: Anderson, Eckstein & Westrick, Inc.

Subconsultants: FK Engineering, Applied Science, Inc., NTH Consultants, Ltd., Spalding DeDecker Associates, PMA, Geosystems, GEI Consultants, Inc., ABF Environmental, and Meadowbrook Insurance.


Contractors: Ric-Man Construction, Inc., and Dan’s Excavating, Inc.

Subcontractors: Mersino, Doetsch Environmental, Rotor Electric, Michigan Caterpillar, Great Lakes Fusion, Haywood Baker, Lowe’s Construction, Malcolm Drilling, Inland Waters Pollution Control, FMG Concrete Cutting, Inc., HESCO, CSM Mechanical, Atsalis Brothers Painting, JayDee Contractors, Pacific International Grout, Florence Cement, GM & Sons, and PK Striping.



AEW hosted a “Thank You for Your Patience” dinner for homeowners, contractors and local officials.

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2018 MACDC INNOVATION AND EXCELLENCE AWARD

15 Mile Road Sewer Collapse

Candice S. Miller, Macomb County Public Works Commissioner


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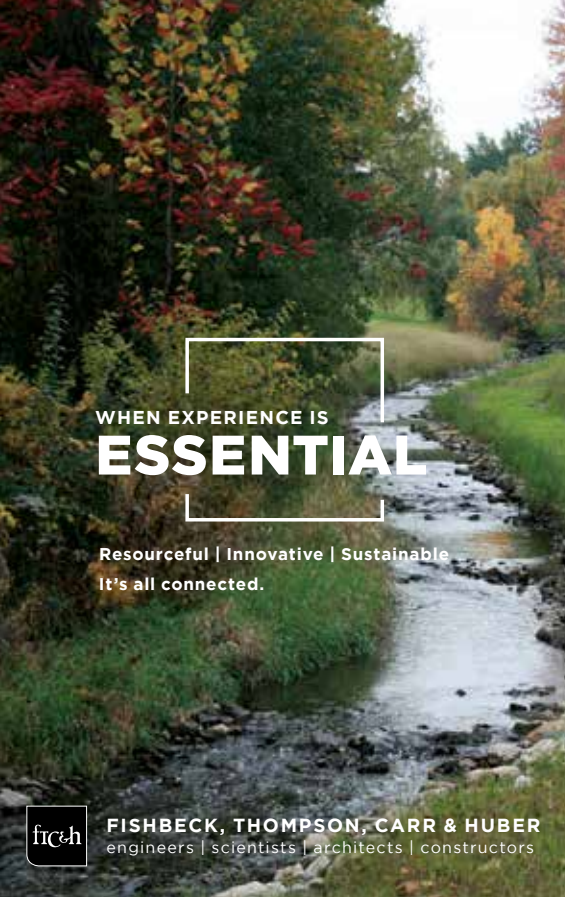


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ASSOCIATE MEMBER NEWS

F&V ADDS FIVE NEW STAFFERS IN MICHIGAN

Fleis & VandenBrink (F&V) continues to expand, adding five new staffers, four at its Grand Rapids headquarters.

Lauren DeJager, Lauren Edson, Peter Drogosh and Katelyn Kaczanowski join the Grand Rapids staff while Scott Rasmussen, PE, was hired at the Traverse City office.

DeJager, a Grand Valley State and Davenport University graduate, is a human resources generalist. She is a former HR staffer for a public transportation organization. Her experience as a benefits administrator will help her at F&V where she will primarily handle recruiting and benefit administration.



DeJager



Edson

Edson and Drogosh join the Water Resources Group as Engineers-in-Training (EITs). Edson is a University of Michigan graduate with a bachelor's degree in Environmental Engineering and a master's degree in Natural Resources. Edson brings storm

water, wetland and surface water experience to the Water Resources Specialties group where she'll work on Stormwater Asset Management plans and hydraulic studies.

Drogosh interned at F&V in the summer and fall of 2017. He returned full-time after graduating from Michigan State University with a bachelor's degree in Biosystems Engineering. His internship experiences in hydraulics and field investigation will benefit the group.



Drogosh



Kaczanowski

Kaczanowski, a Grand Valley State University grad with majors in marketing and management, is a marketing assistant. Multiple internships will help her provide creative and administrative support for various marketing efforts, as well as assist in corporate initiatives and events.

Rasmussen is a part of the West Michigan Group. He spent six years as an engineering consultant in Chicago and Washington, DC, where he was an onsite project manager for DC's largest Department of Transportation (DOT) project at that time – the 11th Street Bridge



Rasmussen

Corridor. He studied Civil Engineering at Michigan State University and continued his studies in Construction Engineering and Management at North Carolina State University.

Rasmussen's engineering and construction experience will aid him in completing designs for municipal utility infrastructure projects and working on water system reliability studies and water system asset management plans.

"The new staffers bring a good mix of experience and youth to our company," said Paul R. Galdes, Principal and F&V's president.

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MAY 4, 2018

Northeast District Meeting
Saginaw

MAY 11, 2018

Southwest District Meeting

MAY 17, 2018

Northwest District Meeting
Ottawa County

MAY 21, 2018

Southeast District Meeting

JULY 18 – 20, 2018

MACDC Annual Summer Conference
Shanty Creek Resort, Bellaire

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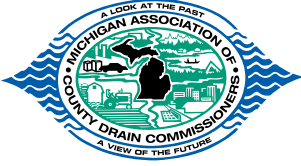
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